



**State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 FAX (603) 271-2982



April 10, 2002

William Phinney  
Chairman, Board of Selectmen  
Town of Bristol  
Town Office  
230 Lake Street  
Bristol, NH 03222

Subject: Administrative Order by Consent WD 02-06

Dear Mr. Phinney:

Please find attached, Administrative Order by Consent WD 02-06 (AOC) issued by the Department of Environmental Services, Water Division (DES), to the Town of Bristol (Bristol). The copy attached is for your records.

If you have any questions regarding this AOC, please contact me at (603) 271-3307.

Sincerely

Sharon Ducharme, P.E.  
Compliance Supervisor, WWEB, NHDES



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**ADMINISTRATIVE ORDER  
BY CONSENT  
No. WD 02-06**

Re: Bristol Wastewater Treatment Facility

A. Introduction

This Administrative Order by Consent is issued by the Department of Environmental Services, Water Division to, and with the consent of, the Town of Bristol, pursuant to RSA 485-A:22. This Administrative Order by Consent is effective upon signature by both parties.

B. Parties

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, with its principal office at 6 Hazen Drive, Concord, NH.
2. The Town of Bristol ("Bristol") is a duly constituted municipality of the State of New Hampshire having a mailing address of 230 Lake Street, Bristol, NH 03222.

C. Statements of Facts and Law

1. Pursuant to RSA 485-A:8 and RSA 485-A:13 and related sections, DES regulates the discharge of pollutants to surface waters and has developed a permit system. As part of this program, the Commissioner of DES adopted Env-Ws 401 - 405 relating to Surface Water Discharge Permits and adopted Env-Ws 1700 establishing Surface Water Quality Regulations for the state's surface waters.
2. The Town of Bristol owns and operates a wastewater treatment facility located at 180 Ayers Island Road, Bristol, NH (hereinafter "the Facility").
3. Operation of the Facility is permitted under the terms of federal National Pollutant Discharge Elimination System ("NPDES") permit number NH0100021 issued by the United States Environmental Protection Agency ("USEPA") to Bristol on August 23, 1999. This NPDES permit was adopted as a State discharge permit on October 7, 1999 under RSA 485-A:13, I (a) and New Hampshire Administrative Rules Env-Ws 401 and 402. The federal and state permits are collectively referred to hereinafter as the "NPDES Permit".
4. The NPDES Permit authorizes Bristol to discharge treated wastewater from the Facility to the Pemigewasset River, subject to specified effluent limitations, monitoring requirements, and other conditions.

5. Pursuant to the Laws of 1967, 311:2, the Pemigewasset River and its tributaries are classified as Class B waters.
6. Pursuant to RSA 485-A:8, II, there shall be no disposal of waste into Class B waters except those that have received adequate treatment to prevent objectionable physical characteristics and an *Escherichia coli* ("*E. coli*") daily count no greater than 406 counts/100 ml.. Disposal of waste shall not be harmful to aquatic life or to the maintenance of aquatic life in said receiving waters. Further, Class B waters shall be acceptable for swimming, fishing and other recreational purposes.
7. NPDES permit condition Part I.A.1. requires that *E. coli* levels in the Facility's effluent not exceed 406 counts per 100 millimeters as a daily maximum count.
8. NPDES permit condition Part I.A.1. requires that *E. coli* levels in the Facility's effluent not exceed 126 counts per 100 millimeters as a monthly average count.
9. For the monitoring period of October 1999 through December 2001, the Facility reported 67 exceedances of the *E. coli* daily maximum count and 9 exceedances of the *E. coli* monthly average count. Attachment 1 identifies these violations.
10. NPDES permit condition Part I.A requires that residual chlorine in the Facility's effluent not exceed 1.0 milligram per liter as a daily maximum.
11. NPDES permit condition Part I.A requires that residual chlorine in the Facility's effluent not exceed 1.0 milligram per liter as a monthly average.
12. For the monitoring period of October 1999 through December 2001, the Facility reported 71 exceedances of the residual chlorine daily maximum concentration and 3 exceedances of the residual chlorine monthly average concentration. Attachment 2 identifies these violations.
13. RSA 485-A:12, I, authorizes DES to enforce classification of state waters and prohibits the discharge of wastewater in a manner that will lower the quality of the receiving water below certain standards.
14. RSA 485-A:12, II, requires the person or persons responsible for the discharge of pollutants that lowers the quality of waters below the assigned classification to abate such pollution within a time frame set by DES.
15. DES issued Administrative Order No. WD 00-36 to Bristol on October 10, 2000 to develop and implement a long term disinfection plan to address the *E. coli* violations.
16. Administrative Order No. WD 00-36 required specified tasks that Bristol would complete for the proposed upgrade to the disinfection system. The system upgrade design was to be complete by September 2001 and construction of the upgrade to be complete by December 2001. This work has not yet been completed.

#### D. Determination of Violations

1. Bristol violated NPDES Permit NH0100021 by discharging wastewater from the Facility that exceeds the specified limits for *E. coli* on at least 76 occasions between October 1999 and December 2001.
2. Bristol violated NPDES Permit NH0100021 by discharging wastewater from the Facility that exceeds the specified limits for residual chlorine on at least 74 occasions between October 1999 and December 2001.
3. Bristol violated Administrative Order No. 00-36 by failing to design and implement a long term disinfection plan to address the *E. coli* violations.

#### E. Order

Based on the above findings and determinations, DES hereby orders Bristol to undertake and complete the following in accordance with the time schedules specified below. The following schedule supercedes the previous schedule approved as part of Administrative Order No. 00-36

1. **Effective immediately upon issuance of this Order**, Bristol shall increase *E.coli* sampling to 5 days/week and shall continue sampling at this frequency until the long term disinfection system upgrade is complete and fully operational.
2. **By April 22, 2002**, submit 50% complete design plans and specifications to DES for the disinfection system upgrade.
3. **By June 1, 2002**, advertise for construction bids for the disinfection system upgrade as approved by DES.
4. **By July 15, 2002**, issue Notice to Proceed to contractor for construction of the disinfection system upgrade as approved by DES.
5. **By December 31, 2002**, complete construction of the disinfection system upgrade and the system shall be fully operational as approved by DES.
6. Send all correspondence and all data, reports and other submissions required by this Order to:

Ms. Sharon L. Ducharme P.E.  
DES-WD/WWEB  
P.O. Box 95  
Concord, NH 03302-0095

copy to: Ms. Joy Hilton  
USEPA Region 1/Water Technical Unit  
1 Congress St., Suite 1100  
Boston, MA 02114-2023


#### F STIPULATED PENALTIES

1. In accordance with Env-C 603.08(a), Bristol agrees to pay \$2,000 per month or portion thereof that compliance is not achieved after the deadline specified in the Order for each provision of the Order not complied with.
2. In accordance with Env-C 603.08(c), Bristol agrees to pay \$500 per violation for each *E. coli* or chlorine violation that occurs between December 2001 and the completion of the long term disinfection system upgrade.
3. Based on the Town's cooperation and efforts to comply with this Order, DES agrees to waive penalties for the violations documented in Attachments 1 and 2 contingent upon Bristol complying with this Order to achieve long term compliance with the Town's NPDES permit. Based on 76 violations of the *E. coli* water quality standard at \$2,000/violation and 9 months of violations of the residual chlorine permit limits at \$1,000 per calendar month or portion thereof for each condition violated, the total penalties that DES agrees to waive based on Bristol's compliance with this Order is \$161,000.
4. If Bristol misses a deadline due to circumstances beyond Bristol's control, penalties will not become due relative to that specific deadline. Failure to secure funding for the projects required in the Order and failure of a consultant to meet deadlines are not to be construed as beyond Bristol's control.
5. If stipulated penalties become due, payment shall be by certified check made payable to "Treasurer, State of New Hampshire" and mailed to DES Legal Unit, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095, attn: Jim Ballentine, Paralegal, within 15 days of receipt of notice from DES that payment is required.

#### G. CONSENT AND WAIVER OF APPEAL

1. By execution of this Administrative Order by Consent, Bristol agrees that this Order shall apply to and be binding upon Bristol, its officers, directors, successors and assigns, and agrees that this Order may be entered and enforced by a court of competent jurisdiction.
2. By execution of this Administrative Order by Consent, Bristol waives any right to appeal this Administrative Order by Consent provided by statute, rule or common law, including without limitation the right to appeal the Water Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction.

#### TOWN OF BRISTOL

  
By  
Chairman, Board of Selectmen  
Duly Authorized

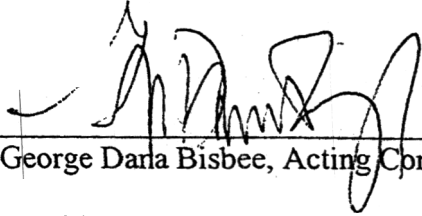
3-21-02  
Date

NH DEPARTMENT OF ENVIRONMENTAL SERVICES



Harry T. Stewart, P.E., Director  
Water Division

3/25/02  
Date



George Dana Bisbee, Acting Commissioner

3/24/02  
Date

Selectmen, Bristol  
Mike Walsh, CDM  
Jennifer Patterson, NHDOJ/AGO  
Gretchen Rule, NHDES Enforcement Coordinator  
Joy Hilton, USEPA  
Sharon Ducharme, P.E., NHDES WWEB